REMARKS

Summary of the Office Action

The abstract of the disclosure is objected to and correction is required.

Claims 1-7 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Tsunasawa et al. (JP Publication No. 2001-337033) (hereinafter "Tsunasawa") and in view of Miwa (U.S. Patent No. 5,676,142) (hereinafter "Miwa").

Summary of the Response to the Office Action

Applicants have amended independent claim 1 and dependent claims 3-6, and added new claims 8-9, to differently describe embodiments of the disclosure of the instant application. Applicants have canceled claims 2 and 7 without prejudice or disclaimer. Accordingly, claims 1, 3-6 and 8-9 remain currently pending and under consideration.

Objection to the Abstract

The abstract of the disclosure is objected to and correction is required. The Examiner stated in the Office Action that the abstract is objected to because of what the Examiner refers to as extra words "and 21" on line 7. The Office Action suggests that "and 21" be deleted from the abstract. Applicants respectfully traverse such assertions as not being technically necessary. Applicants note that it appears that there is a misunderstanding by the Examiner in this respect. More particularly, the abstract in it's original form includes the following portion at lines 5-8: "There is also provided an optical delay device 22 between a pulse light source 30 as a common light source for the irradiation probes 11 and 21 and the irradiation probe 21 (emphasis added) ...."

Applicants respectfully submit that this portion of the abstract means that: (1) there is also provided an optical delay device 22 between a pulse light source 30 and the irradiation probe 21, and (2) the pulse light source 30 is a common light source for the irradiation probes 11 and 21. Accordingly, for at least the foregoing reasons, withdrawal of the objection to the abstract, and the associated requirement for correction, is respectfully requested.

Rejections under 35 U.S.C. § 103(a)

Claims 1-7 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Tsunasawa and in view of Miwa. Applicants have amended independent claim 1 and dependent claims 3-6 to differently describe embodiments of the disclosure of the instant application. Applicants have canceled claims 2 and 7 without prejudice or disclaimer, rendering the rejections of claims 2 and 7 moot. To the extent that these rejections might be deemed to still apply to the remaining claims as newly-amended, the rejections are respectfully traversed for at least the following reasons.

Applicants respectfully submit that independent claim 1 of the instant application has been newly-amended to describe an advantageous combination of features of a scattering medium measuring apparatus that includes the following features:

(1) each of the measuring modules has a single light irradiating unit, and a plurality of light detecting units;

(2) timing instruction means is further provided for instructing the light irradiating unit and the light detecting units; and

(3) in the measuring module, the detection probes are arranged around the irradiation probe, and these probes are arranged so that each light detecting

position has the same distance from the light irradiation position.

Applicants respectfully submit that, of the above-described features (1) to (3), the feature (2) is originally described in dependent claim 2. Accordingly, as features of previous dependent claim 2 are now included in newly-amended independent claim 1, dependent claim 2 has been canceled without prejudice or disclaimer. As for the above-described features (1) and (3), Applicants refer, for example, to Figs. 1, 4, 6, 7, and related descriptions in the specification, of the instant application.

Applicants respectfully submit that the configuration of the scattering medium measuring apparatus including the above-described combination of advantageous features is neither disclosed, nor even suggested, in Tsunasawa and Miwa, whether taken separately or in combination with each other.

Specifically, Applicants respectfully submit that, in the disclosure of Tsunasawa, the measuring apparatus comprising the measuring modules, each having a single light irradiating unit and a plurality of light detecting units, and being configured so that the detection probes are arranged around the irradiation probe and each light detecting position has the same distance from the light irradiating position, is not disclosed.

Further, Applicants respectfully submit that in the measuring apparatus of the instant application's disclosed invention, the timing instruction means is provided for instructing the above-described single light irradiating unit and the plurality of light detecting units on an irradiation timing and a detection timing. Based on the instruction signals from the timing instruction means, the light irradiating units of the measuring modules are adapted to irradiate the scattering medium with the pulse light successively at the different irradiation timings. Even further, each of the light detecting units is adapted to detect light at the detection timing

synchronized with the irradiation timing of the corresponding light irradiating unit. Applicants respectfully submit that this feature of the present invention is also not disclosed in Tsunasawa. In addition, Applicants respectfully submit that these features of the present invention are also not disclosed in Miwa.

Accordingly, Applicants respectfully assert that the rejections under 35 U.S.C. § 103(a) should be withdrawn because Tsunasawa and Miwa, whether taken separately or combined, do not teach or suggest each feature of newly-amended independent claim 1 of the instant application. As pointed out by MPEP § 2143.03, "'[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.' In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)." Since the prior art does not disclose or suggest any of the combinations recited in Applicants' claims, and if anything appears to teach away from the current claim recitations, KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727 (2007), Applicants submit that such recited combinations would not have been obvious in view of the applied references of record, whether taken alone or combined in the manner suggested by the Examiner in the Office Action.

Furthermore, Applicants respectfully assert that the dependent claims 3-6, including newly added dependent claims 8 and 9, are allowable at least because of their dependence from independent claim 1, and the reasons discussed previously. The features of newly-added dependent claims 8 and 9 are based on the disclosed configurations described with regard to Figs. 4, 6 and 7 of the instant application.

Information Disclosure Statement Issues

Applicants filed an Information Disclosure Statement in this application on August 20, 2008 citing three "Foreign Patent Documents" on the associated PTO Form 1449 and including

English-language Abstracts of each of these documents, together with a copy of a Notice of Allowance dated July 29, 2008 that issued in a Japanese Patent Application. The Examiner attached a copy of this associated PTO Form 1449 with the Office Action dated January 23, 2009. The PTO Form 1449 included an indication by the Examiner that all references were considered except where lined through. While no references were "lined through" in the usual sense of horizontally inserting a line across the entry of any particular reference, an "X" was inserted over the entire PTO Form 1449 page. However, the Examiner did not provide any reason why the references were not being considered. As a result, the record is currently not clear as to whether or not the materials submitted by Applicants with the IDS on August 20, 2008 were actually considered by the Examiner. **As there is no apparent reason why these materials should not have been considered, the Examiner is respectfully requested to clarify the record in the next Office Communication and include a copy of the PTO Form 1449 that clearly indicates that all of the associated materials were considered.**

CONCLUSION

In view of the foregoing amendments and remarks, withdrawal of the rejections and allowance of all pending claims are earnestly solicited. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including

any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573.

This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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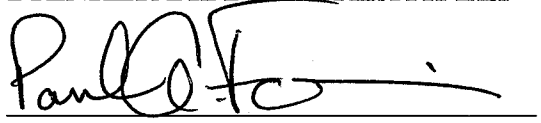
Dated: May 21, 2009 By: 

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